Storm Water Phase II: Where is the Permit Program Headed in the States?

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ASIWPCA

Robbi Savage
Executive Director
Association of State and Interstate Water Pollution Control Administrators

According to the EPA'S 1998 *National Water Quality Inventory:*

- Approximately 40% of surveyed US water bodies do not fully meet water quality standards.
- Storm water runoff is a leading cause of their impairment.

Scope of the Problem

Combined, urban runoff and storm sewer discharges are the:

- Third most prevalent source of impairment to our lakes and waters.
- Second most prevalent source of impairment to estuaries.

Two Key Factors in Storm Water Runoff:

- Increased volume and rate from impervious sources.

2) Concentration of pollutants in the runoff.

Both are closely tied to urbanization.

Center for Watershed Protection Estimates:

- Impervious cover less than 10% = sensitive but generally healthy waters.
- Impervious cover between 10-25% = impacted and declining water quality that needs attention.
- Impervious cover more than 25% = water quality poor and does not support aquatic uses.

What are the Pollutants and Typical Effects?

Pollutants:

- Suspended solids and sediment
- Nutrients
- Metals
- Oil and grease
- Bacteria
- Pesticides
- Temperature

Effects:

- Increased pollution and impairment of designated water uses
- Habitat destruction
- Loss of desirable aquatic species
- Beach and shellfish bed closures

In 1987 Congress reauthorized the Clean Water Act to mandate regulation of storm water as a point source in a phased approach.

Phase I Storm Water Permit Program Applied to:

- Municipalities with populations $\geq$ 100,000
- 11 Categories of industrial activity
- Construction activities $\geq$ 5 acres

Storm Water Phase II Program

- EPA Regulations: December 8, 1999
- Sources covered:
  - ➢No new industrial/commercial site runoff allowed
  - ➢Construction sites $\geq$ 1 acre
  - ➢Designated municipalities < 100,000
  - ➢Small Municipalities Located in "Urbanized Areas"

Storm Water Phase II Permit Requirements

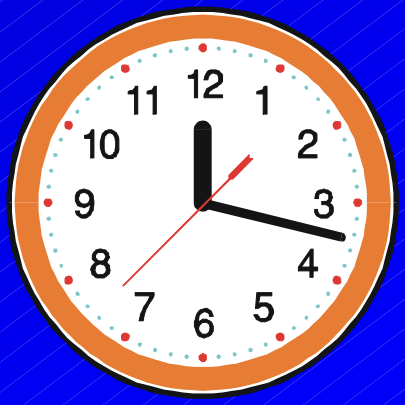
Phase II: Comprehensive local program to reduce discharge that contains these minimum measures:

- ☑ Education & Outreach
- ☑ Public Involvement
- ☑ Illicit Discharges
- ☑ Construction Site Controls
- ☑ Post-Construction Stormwater Management
- ☑ Pollution Prevention

Storm Water Phase II Program

Timeframes for Implementation

- States to issue General Permits:
  December 9, 2002
- Local Application for coverage under permit
  Due: March 10, 2003
- Permit requirements in effect: generally 90 days after permit issuance
- Full compliance with permit required in 5 years

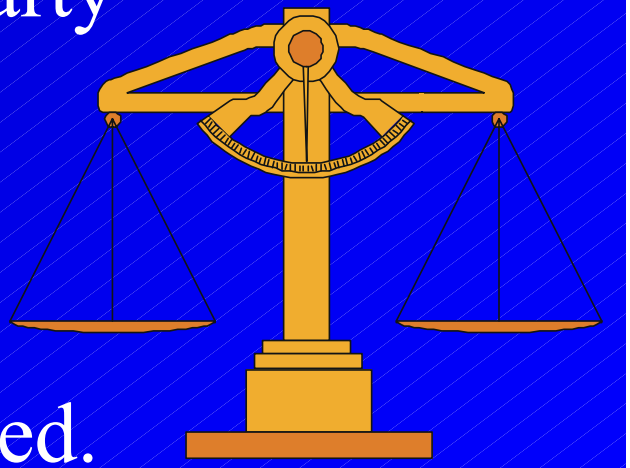


Summary of Phase II Impacts

- ✓ Number of cities and counties affected by USEPA rule increases exponentially because they must get a permit.
- ✓ States permit work load increase.
- ✓ In general this must be done with limited or no additional resources.

Compliance

- Storm Water Permits are issued under the NPDES Program - the fundamental regulatory mechanism of the Clean Water Act.
- Violation of a permit condition is subject to enforcement, penalties, and third party lawsuits.
- EPA oversight – if a State does not operate an adequate program, NPDES authorization can be revoked.



How Does Storm Water Phase II Relate to Nonpoint Sources

- Nonpoint source agriculture and silviculture activities were specifically excluded from NPDES storm water permitting requirements.

-- but, the line between what is a point *vs.* a nonpoint source can be murky and may change over time --

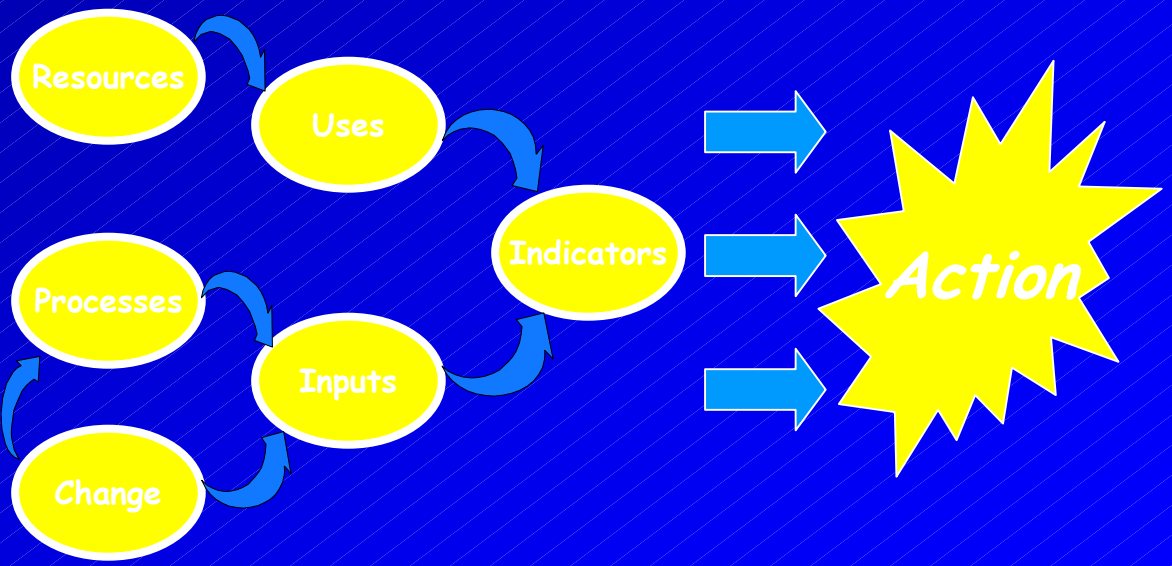
• It is important to pay attention to non-urban sources of storm water that impair or threaten water quality.

In Waters Impaired by Storm Water – The Link to TMDLs is Clear

- Where State impaired 303(d) water lists identify storm water as a cause of the pollution problem, a TMDL will be needed.
- In some States, it is clear that measures needed to achieve the TMDL are more than the minimum USEPA set in the Rule.
- In some States, water quality standards may not be attained for some waters even after application of all reasonable measures.

TMDLs and Watershed Management

- **Analysis Framework:** ***Watershed Analysis***



TMDL Issues/Challenges

- TMDLs can be difficult to develop
- Limited data
- Complex water body and systems
- Unknown or legacy sources
- Interagency/Stakeholder cooperation
- Regulatory constraints/conflicts

Adaptive Management Is the Key to Watershed Protection

- Institute common sense measures to address impairment
- Evaluate results
- Take next logical steps

Effective TMDL/Watershed Strategies

- "Bang for the buck"
- Maximize stakeholder involvement and "buy in"
- Look ahead, adapt
- TMDL is a means, not the end

A Win-Win Example: South SF Bay Copper Storm Water TMDL

- Stakeholder collaborative forum
  - Stakeholder driven
- $2+ million support from San Jose et al
- Significant increase in trust
- "Consensus" on site-specific water quality objective with focus on pollution prevention and watershed management

Funding

- State Revolving Fund loans for storm water projects (cities, counties, districts, authorities) -- Up to 100% financing or match to other funds
- Other important sources are funding for Nonpoint Source and third party/local contributions

Other State Activities

- Changing State rules to cover Phase II.
- Informing the regulated community.
- Preparing to manage the massive amount of paperwork and data expected.
- Considering ways to electronically track and administer the program.
- Securing additional funding for Phase II (is unlikely.)
- Expanding nonpoint programs.

Storm Water is a contentious issue because:

- It is a huge task.
- Resources are limited.
- Questions/concerns remain regarding the EPA approach.
- States continue to seek recognition of functionally equivalent approaches.

Ultimately implementation of Phase II Rule may improve our ability to handle storm water, and with that a more collegial and creative approach to storm water management may, perhaps, emerge.

YEAR OF CLEAN WATER

www.yearofcleanwater.org

- **National Water Quality Monitoring Day**
- **World Watershed Summit**
- **National Youth Watershed Summit**
- **Toward Watershed Democracy: Improving Public Participations and Governance in Water Management**

Robbi Savage

Executive Director

ASIWPCA

(202) 898-0905

www.asiwpca.org

www.tmdls.net

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